From:	Avi Tiomkin <ATiomkin@atglobalcap.com>
To:	ehbarak <ehbarak1@gmail.com>
CC:	nili Priell <nilipr@013net.net>
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Russia set to start posthumous trial of whistleblower Magnitsky - RTRS
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* Preliminary hearing scheduled for Monday in Magnitsky case
* Magnitsky died in jail after accusing officials of fraud
* New U.S. law punishes Russians suspected of rights abuses

By Steve Gutterman and Alissa de Carbonnel

MOSCOW, Jan 28 (Reuters) - Russia prepared to put whistleblowing lawyer Sergei Magnitsky on trial more than three years after his death, with a preliminary hearing set for Monday in a move relatives and rights groups called politically motivated and a travesty of justice.

Magnitsky's death in a Moscow jail has harmed Russia's image abroad and badly strained relations with the United States.

His mother and her lawyer said they refused to participate.

"I think it is inhuman to try a dead man," Magnitsky's mother Natalya told Reuters by telephone. "This is not a court case but some kind of farce, and I will not take part in it."

Magnitsky was 37 when he died after 358 days in jail on suspicion of tax evasion and fraud, during which he said he was denied treatment as his health declined. The Kremlin's own human rights council aired suspicions he was beaten to death.

Russian authorities said he died of a heart attack, but his former employer, investment fund Hermitage Capital, says he was killed because he was investigating a $230 million theft by law enforcement and tax officials through fraudulent tax refunds.

Relatives and former colleagues including Hermitage owner William Browder, who also faces trial in absentia, say Magnitsky was investigated and jailed by some of the same mid-level officials he told authorities had defrauded the state.

Nobody has been convicted of any crime in connection with Magnitsky's death. One prison official was tried last year but prosecutors asked the court to clear him after Putin said Magnitsky had not been tortured, and the judge complied.

The case against Magnitsky is a different story. It was closed after he died, but authorities took the highly unusual step of reopening it in 2011, as international criticism of Russia over his death mounted.

"DANGEROUS PRECEDENT"

Prosecutors filed charges against Magnitsky and Browder last year, shortly before the United States adopted the Magnitsky Act - legislation imposing sanctions on Russians believed to be involved in his death or other grave human rights abuses.

Russia responded with a law that imposed similar measures in

return and also barred Americans adopting Russian children, adding to tension that has increased since Vladimir Putin's return to the presidency last May.

Natalya Magnitskaya's lawyer, Nikolai Gorokhov, said it was illegal to prosecute a dead person in Russia unless requested by relatives seeking rehabilitation for their loved one.

He dismissed the trial as a politically motivated attempt to discredit Magnitsky and Browder and paint them as the criminals, rather than the Russian officials they have sought to expose.

"It's a dance on the grave of a dead man," Gorokhov said.

Browder, who lives in Britain, has also said he would not participate. He was one of the biggest Western investors in Russia but was barred from the country in 2005 as Hermitage found itself coming under increasing official pressure.

Judges use preliminary hearings to address procedural motions and set a trial date. If Magnitsky's relatives do not hire a lawyer to defend him, the court will appoint one, state-run news agency RIA reported.

Rights group Amnesty International said the planned trial of Magnitsky was an "attempt to deflect attention from those who committed the crimes he exposed."

It would set "a dangerous precedent that would open a whole new chapter in Russia's worsening human rights record," the group's regional director, John Dalhuisen, said in a statement.

(Writing by Steve Gutterman; Editing by Louise Ireland)
((steve.gutterman@thomsonreuters.com)(+74957751242)(Reuters Messaging: steve.gutterman.thomsonreuters.com@reuters.net))

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